

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION

DONNA DIANNE WATSON,

Plaintiff,

v.

Civil Action No. _____
Fairfax County Circuit Court Case No. CL19-15296

RACHEL INEZ ORONA and
THE SALVATION ARMY, an unincorporated association
NATIONAL CAPITAL AND VIRGINIA DIVISION HEADQUARTERS,

Defendants.

NOTICE OF REMOVAL

Defendants Rachel Inez Orona (“Orona”) and The Salvation Army, improperly named as The Salvation Army, an unincorporated association National Capital and Virginia Division Headquarters (collectively, “Defendants”), by counsel and pursuant to 28 U.S.C. §§ 1441 and 1446, hereby file this Notice of Removal on the following grounds:

1. This is a personal injury action in which Plaintiff claims to have been injured in an automobile accident as a result of the alleged negligence of Orona. Plaintiff alleges respondeat superior liability of The Salvation Army for the accident as Orona’s employer.

2. Plaintiff filed a Complaint in the Fairfax County Circuit Court on November 8, 2019, seeking \$750,000.00 in compensatory damages against the Defendants. A copy of the Complaint is attached hereto as Exhibit A.

3. Plaintiff served the Secretary of the Commonwealth as statutory agent of Orona pursuant to Section 8.01-329 of the Code of Virginia on October 1, 2020, as noted on the

Certificate of Compliance included with Plaintiff's Affidavit for Service of Process on the Secretary of the Commonwealth attached as Exhibit B collectively with a Notice of Service of Process, Summons, and a copy of Notice of Service of Process on the Secretary of Commonwealth without completed Certificate.

4. Upon information and belief, Plaintiff attempted service on the Secretary of the Commonwealth as statutory agent of The Salvation Army, improperly named as The Salvation Army, an unincorporated association National Capital and Virginia Division Headquarters, pursuant to Section 8.01-329 of the Code of Virginia on October 1, 2020.

5. The Certificates of Compliance for both Defendants were filed in Fairfax County Circuit Court on October 16, 2020.

6. Defendants timely filed a Plea in Bar, requesting that the Fairfax Circuit Court dismiss "The Salvation Army, an unincorporated association National Capital and Virginia Division Headquarters" because it is not a legally recognized entity, in Fairfax County Circuit Court on October 20, 2020, a copy of which Defendants have attached as Exhibit C.

7. On October 20, 2020, concurrently with their Plea in Bar, Defendants jointly filed an Answer to the Complaint in the Circuit Court for the County of Fairfax. Defendants have attached a copy of their Answer as Exhibit D.

8. There have been no further proceedings in this action.

9. Plaintiff is a citizen of Virginia. Complaint at ¶ 1.

10. The Salvation Army is, and was at the time this action was filed, incorporated in Georgia with its principal place of business in the state of Georgia. The Salvation Army was not, and is not now, a citizen of the Commonwealth of Virginia. "The Salvation Army, an

unincorporated association National Capital and Virginia Division Headquarters” is not a legally recognized entity

11. Defendant Orona is, and was at the time this action was filed, a resident and citizen of Iowa.

12. This action involves a controversy wholly between citizens of different states. There is complete diversity of citizenship.

13. The amount in controversy in this action, exclusive of interest and costs, exceeds \$75,000.00.

14. All Defendants consent to removal of this matter.

15. This Court has original jurisdiction in this matter pursuant to 28 U.S.C. § 1332(a), and it is appropriate to file this Notice of Removal in this Court pursuant to 28 U.S.C. § 1446(a) because the action is pending within the Alexandria Division of this Court.

16. The action may therefore be removed to this Court pursuant to 28 U.S.C. § 1441(a). Defendants jointly seek to remove this action to this Court.

17. Copies of all process, pleadings, and orders served upon Defendants are attached hereto, in accordance with 28 U.S.C. § 1446(a).

18. Pursuant to 28 U.S.C. § 1446 (b)(3), this Notice of Removal is filed “within 30 days after the receipt by the defendant, through service or otherwise, of a copy of the initial pleading setting forth the claim for relief upon which such action or proceeding is based.”

19. Pursuant to 28 U.S.C. § 1446(d), Defendants will promptly notify Plaintiff’s counsel of this Notice of Removal and will file a copy of this Notice of Removal with the Fairfax County Circuit Court.

17. Defendants demand a trial by jury pursuant to Federal Rule of Civil Procedure 38.

WHEREFORE, Rachel Inez Orona and The Salvation Army, improperly named as The Salvation Army, an unincorporated association National Capital and Virginia Division Headquarters, by counsel, respectfully request that this action be removed from the Fairfax County Circuit Court to this Court.

RACHEL INEZ ORONA and
THE SALVATION ARMY, improperly named as
THE SALVATION ARMY, an unincorporated association
NATIONAL CAPITAL AND VIRGINIA DIVISION
HEADQUARTERS

/s/_____
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CERTIFICATE OF SERVICE

I hereby certify that on the 28th day of October, 2020, I will electronically file the foregoing with the Clerk of the Court using the CM/ECF system. I further certify that on this 28th day of October, 2020, a true and accurate copy of the foregoing will be sent via email and U.S. mail to

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